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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/744,035      | 04/20/2001  | Gyozo Baki           | 01-117              | 3031             |

7590 08/06/2003

Bachman & LaPointe  
Suite 1201  
900 Chapel Street  
New Haven, CT 06510-2802

EXAMINER

FOX, JOHN C

| ART UNIT | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Paper No. 22

Serial Number: 09/744035

Filing Date: April 20, 2001

Appellant(s): Baki

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**AUG 6 2003**

**GROUP 3700**

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Gregory P. LaPointe

For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed July 9, 2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of claims.*

The statement of the status of claims contained in the brief is correct.

(4) *Status of Amendments After Final.*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of invention.*

The summary of invention contained in the brief is correct.

(6) *Issues.*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of claims.*

As there is only one claim, the grouping of claims is moot.

(8) *Claims appealed.*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of record.*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

| #         | name        | date               |
|-----------|-------------|--------------------|
| 5,806,552 | Martin, Jr. | September 15, 1998 |

(10) *New prior art.*

No new prior art has been applied in this examiner's answer.

(11) *Grounds of rejection.*

The following ground(s) of rejection are applicable to the appealed claims. Claim 5 is rejected under 35 USC 102(b) as being anticipated by Martin, Jr. This rejection is set forth in the prior Office action, paper number 18 of February 11, 2003.

(12) *New ground of rejection.*

This Examiner's Answer does not contain any new ground of rejection.

(13) *Response to argument.*

Martin, Jr. show a hot and cold mixing valve for mixing hot and cold water, see column 1, first sentence of the first paragraph. A movable valve element is rotatable to regulate flow from the hot and cold water inlets to the outlet, see column 1, lines 42-43. A movable disc 48 forms a sealing plane with a stationary disc 40 below it to control the flow from the inlets to the outlet. Ergo, movable disc is rotatable.

Martin, Jr. is primarily concerned with the adaptor 50 and seal 80 and is brief in explaining the operation of the valve. The movable disc 48 is rotated by stem 18, and Figure 1 shows the handle 14 at an angle to the stem, which suggests pivoting of the stem. Martin, Jr. say the valve works in "a customary manner".

Valves of this type, which rotate to modulate the water temperature and pivot to control the flow rate, and use a ceramic holding plate to hold the movable disc, are well known. EP 0 684 416 and Boiso '958, each of record, clearly show such customary features. Further, these features are recited in the preamble of claim 5, which is a Jepson type claim and which indicates these features are known in the Prior Art.

A routineer in the art would therefore reasonably conclude that Martin, Jr. includes these customary features.

It is reasonable to read the lower portion of the Martin, Jr. cartridge as a connection piece, since it connects to the water lines, and to read the adaptor 50 as an interchangeable insertion piece since it is inserted into the connection piece and can be readily interchanged with another adaptor.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

*Stephen M. Hepperle*

STEPHEN M. HEPPERLE  
PRIMARY EXAMINER  
ART UNIT 347  
(Conferee)

*John Fox*

JOHN FOX  
PRIMARY EXAMINER

*John Rivell*

JOHN RIVELL  
PRIMARY EXAMINER  
ART UNIT ~~347~~ 3753

*Acting SPE 3753*  
*Conferee*

jf  
8/3/2003